

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

IN RE PORK ANTITRUST
LITIGATION

Case No. 18-CV-1776 (JRT/JFD)

This document relates to:
Sysco Corporation v. Agri Stats, Inc.
et al., Case No. 21-cv-1374

**BOIES SCHILLER FLEXNER LLP'S MOTION TO WITHDRAW
AS COUNSEL FOR SYSCO CORPORATION**

Pursuant to LR 83.7(c), Boies Schiller Flexner LLP (“BSF”) respectfully seeks to withdraw as counsel for Sysco Corporation. BSF submits there is good cause for this Motion to be granted:

1. On February 23, 2023, Barrett Flynn, in-house counsel at Sysco, sent an email to BSF stating that BSF was discharged and terminated for cause from all Section 1 antitrust and related claims it is handling on behalf of Sysco, including this case, “effective upon our retention of new counsel, which we expect to take place in the coming days.” The email did not identify the purported “cause” for the termination and discharge.

2. BSF’s Scott Gant responded by email, acknowledging receipt of Mr. Flynn’s email, acknowledging Sysco’s right to counsel of its choice, and disagreeing that there is any “cause” for Sysco to terminate BSF.

3. BSF continued time-sensitive work on behalf of Sysco after the February 23, 2023 termination email, to ensure Sysco was not prejudiced, and made Sysco aware of that work.

4. Although Sysco's February 23, 2023 email said that the "termination and discharge is effective upon our retention of new counsel," and this Court has not yet relieved BSF, it is clear Sysco already views BSF as its *former* counsel. Sysco has stated in various filings since February 23 that it has terminated BSF. *See, e.g.*, Sysco Petition to Vacate Arbitration Award (ECF 1846-1) ¶ 36 ("Sysco discharged Boies Schiller on February 23, 2023."); Sysco Amended Petition to Vacate Arbitration Award (N.D. Ill. Case No. 1:23-cv-01451, ECF 18) ¶ 40 (same); Flynn Declaration (N.D. Ill. Case No. 1:23-cv-01451, ECF 1-1) ¶ 21 ("On February 23, 2023, Sysco discharged Boies Schiller"); Sysco Motion for Reassignment and Consolidation (N.D. Ill. Case No. 16-cv-08637, ECF 6487) at 3 (referring to BSF as "Sysco's former counsel in the Antitrust Litigations").

5. Sysco has had a month to find replacement counsel.

6. Pursuant to Rule 1.16(a)(3) of the Minnesota Rules of Professional Conduct, applicable to this proceeding by virtue of Local Rule 83.6(a) of the United States District Court for the District of Minnesota, "a lawyer shall not represent a client or, where representation has commenced, shall withdraw from the representation of a client if . . . the lawyer is discharged." Separately, other professional considerations require termination of the attorney-client relationship.

7. BSF stands ready to provide additional information and can disclose confidential information in connection with this motion to withdraw if ordered to do so by the Court.

Respectfully submitted,

/s/ Scott E. Gant

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